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Rebecca Rabovsky  
*Pacific McGeorge School of Law*

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# Patriotic Inebriation: Reducing Alcohol-Related Issues on the Truckee River During the Fourth of July

*Rebecca Rabovsky*

## *Code Section Affected*

Business and Professions Code § 25608.10 (new).

SB 1159 (Cox); 2008 STAT. Ch. 44 (*Effective June 30, 2008*).

## I. INTRODUCTION

In a two-hour period during the Fourth of July weekend in 2006, 1,115 rafters floated down the Truckee River.<sup>1</sup> During this same period one year later, 2,023 rafters floated down the Truckee River—nearly twice the number from the previous year.<sup>2</sup> Law enforcement officials reported numerous problems related to alcohol, ranging from excessive drunkenness to violence and injuries.<sup>3</sup> One intoxicated individual misjudged the release on a rope swing, hit his head on a rock, and had to be life-flighted to a hospital in Reno.<sup>4</sup> According to business owners and local residents, the emerging “party atmosphere” on the Truckee River was driving away families and tourists who wanted a relaxing experience.<sup>5</sup> To curb these alcohol-related issues, the Placer County Board of Supervisors passed an ordinance banning alcohol on the land next to portions of the Truckee River during holiday periods.<sup>6</sup> Because this ordinance only applied to the land around the Truckee River, Chapter 44 was introduced to ban alcohol on the water itself.<sup>7</sup>

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1. Andrew Cristancho, *Truckee River Alcohol Ban Closer*, UNION.COM, Apr. 8, 2008, <http://theunion.com/apps/pbcs.dll/article?AID=/20080408/BREAKINGNEWS/157853904&parentprofile=search> (on file with the *McGeorge Law Review*).

2. *Id.*

3. ASSEMBLY FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 3 (June 20, 2008).

4. Julie Brown, *Truckee River Hit by Fourth Madness: Holiday Sees Massive Crowds, Alcohol, and a Near-death Accident*, SIERRA SUN, July 5, 2007, <http://www.sierrasun.com/article/20070705/NEWS/70705003> (on file with the *McGeorge Law Review*).

5. ASSEMBLY FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 3 (June 20, 2008).

6. *Truckee River Alcohol Ban Signed into Law*, ROCKLIN & ROSEVILLE TODAY, July 1, 2008, [http://www.rocklintoday.com/news/templates/community\\_news.asp?articleid=6326&zoneid=4](http://www.rocklintoday.com/news/templates/community_news.asp?articleid=6326&zoneid=4) (on file with the *McGeorge Law Review*). The Board also requested a ban on alcohol during these periods on the waterway itself. *Id.*

7. See generally CAL. BUS. & PROF. CODE § 25608.10 (enacted by Chapter 44) (making it unlawful to have alcohol on the Truckee River during certain times).

## II. EXISTING LAW

### A. Legislative Efforts

In 2000, Assembly Member Sam Aanestad introduced AB 2187, which then-Governor Davis signed into law (enacted as Chapter 381).<sup>8</sup> This statute gave local governments the authority to prohibit open containers of alcohol in parks or public places owned by the city or county.<sup>9</sup> This authority only applied “if the respective local government ha[d] enacted an ordinance prohibiting the possession or consumption of alcoholic beverages in those areas.”<sup>10</sup>

In 2007, Assembly Member Dave Jones introduced AB 951, which Governor Schwarzenegger signed into law (enacted as Chapter 19).<sup>11</sup> Chapter 19 prohibited the possession of all alcoholic beverages, open or closed, on non-motorized vessels on the American River, between the Hazel Avenue and Watt Avenue bridges, during the summer holiday periods of Memorial Day, 4th of July, and Labor Day.<sup>12</sup> Notice must be provided along the portions of the American River where the prohibition applies, and violations can result in an infraction, pursuant to California Government Code section 25132.<sup>13</sup> Chapter 19’s purpose was to “prevent excessive levels of public drunkenness, fights with oars, public nudity, and littering on the American River.”<sup>14</sup>

### B. *The Alcoholic Beverage Control Act and Laws Relating to Boating While Under the Influence of Alcohol*

The Department of Alcoholic Beverage Control (ABC) administers the provisions of the ABC Act, which regulates the manufacture, sale, and importation of alcoholic beverages.<sup>15</sup> Any violation of the ABC Act, unless stated otherwise in statute, is a misdemeanor and must be enforced by California peace officers.<sup>16</sup> If the violation is reduced to an infraction by county ordinance, it is punishable by “(1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year; (3) a fine not exceeding five

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8. ASSEMBLY COMMITTEE ON APPROPRIATIONS, COMMITTEE ANALYSIS OF SB 1159, at 2 (June 18, 2008).

9. *Id.*

10. *Id.*

11. SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 3 (June 20, 2008).

12. *Id.*

13. SENATE FLOOR, COMMITTEE ANALYSIS OF AB 951, at 3 (Sept. 20, 2007).

14. *Id.*

15. SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 2 (June 20, 2008). For the full text of the ABC Act and related statutes, see CAL. DEP’T OF ALCOHOLIC BEVERAGE CONTROL, ALCOHOL BEVERAGE CONTROL ACT & RELATED STATUTES (2007), [http://www.abc.ca.gov/forms/ABCAct\\_2007.pdf](http://www.abc.ca.gov/forms/ABCAct_2007.pdf) (on file with the *McGeorge Law Review*).

16. SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 2-3 (June 20, 2008).

hundred dollars (\$500) for each additional violation of the same ordinance within one year.”<sup>17</sup>

Additionally, the California Harbor and Navigation Code (CHNC) regulates laws related to boating under the influence of alcohol.<sup>18</sup> According to the CHNC, “no person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or the combined influence of an alcoholic beverage and any drug.”<sup>19</sup> In addition, no one may operate any of the above listed vessels with a blood-alcohol concentration greater than 0.08.<sup>20</sup> Chapter 44 reduces the likelihood of individuals boating under the influence of alcohol by prohibiting alcohol on the Truckee River.<sup>21</sup>

### III. CHAPTER 44

Chapter 44, which enacted California Business and Professions Code section 25608.10, prohibits persons in vessels<sup>22</sup> on the river or bathers<sup>23</sup> in the river from possessing open or closed alcoholic beverage containers during certain summer holiday periods.<sup>24</sup> Chapter 44 defines a “container” as a bottle, can, or other receptacle.<sup>25</sup> It affects the portion of the Truckee River from the Highway 89 Bridge in Tahoe City to the Alpine Meadows Bridge.<sup>26</sup> Furthermore, Placer

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17. CAL. GOV'T CODE § 25132 (West 2004).

18. See SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 2 (June 20, 2008) (describing existing prohibitions against operating watercraft while under the influence).

19. CAL. HARB. & NAV. CODE § 655(b) (West 2001).

20. *Id.* § 655(c).

21. See SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 3 (June 20, 2008) (noting that the bill responds to issues of intoxication on the river and is intended to address related safety issues).

22. “Vessels” is defined by to include “every description of watercraft used or capable of being used as a means of transportation on water.” CAL. HARB. & NAV. CODE § 651 (West 2001); see also CAL. BUS. & PROF. CODE § 25608.10(a) (enacted by Chapter 44) (referring to CAL. HARB. & NAV. CODE § 651 for the definition of “vessel”).

23. A “bather” is defined as:

a person floating, swimming, wading, or bodysurfing, with or without the use of a flotation device, including, but not limited to, floating upon or with the aid of a surfboard, paddle board, surfmat, innertube, life preserver, or air mattress, except a flotation device which is designed to be propelled by sail, mechanical means, power, oars, or paddle.

CAL. HARB. & NAV. CODE § 651.1 (West 1990); see also CAL. BUS. & PROF. CODE § 25608.10(a) (enacted by Chapter 44) (referring to CAL. HARB. & NAV. CODE § 651.1 for the definition of bather).

24. CAL. BUS. & PROF. CODE § 25608.10(a) (enacted by Chapter 44). The Placer County Board of Supervisors prohibits alcohol along the land portions of the Truckee River during these “summer holiday periods.” *Id.*

25. *Id.* § 25608.10(b) (enacted by Chapter 44). Violations of this section may be punishable as an infraction. *Id.* § 25608.10(c) (enacted by Chapter 44).

26. ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION, COMMITTEE ANALYSIS OF SB 1159, at 1 (May 15, 2008).

County must provide notice of the alcohol prohibition on appropriate portions of the Truckee River, and that a violation is punishable as an infraction.<sup>27</sup>

#### IV. ANALYSIS

Because it applies to alcohol possession and consumption on the waterway itself, Chapter 44 will almost certainly decrease the number of alcohol-related incidents on and near the Truckee River.<sup>28</sup> The Placer County Board of Supervisors, concerned by the increasing number of intoxicated people on the Truckee River during holiday periods, sponsored Chapter 44.<sup>29</sup> Indeed, Chapter 44's intent is to "assist in resolving excessive public drunkenness and related public health and safety and environmental degradation issues along the Truckee River" during summer holiday periods.<sup>30</sup> The number of people "floating down" the Truckee River during the Fourth of July almost doubled from 2006 to 2007.<sup>31</sup> In past years, excessive alcohol consumption has caused numerous problems in the area around the Truckee River.<sup>32</sup>

The Truckee River remains a Fourth of July holiday destination, leading to many alcohol-related arrests on or near the Truckee River.<sup>33</sup> These include offenses such as driving under the influence (DUI), indecent exposure, and minors in possession of alcohol.<sup>34</sup> Excessive drunkenness has also caused many automobile collisions and at least one alcohol-related death.<sup>35</sup> In 2007, officials reported four injuries, several alcohol-fueled fights, drunk driving, and an enormous amount of underage drinking.<sup>36</sup> Both local businesses and residents contend that the atmosphere on the Truckee River during these periods has become undesirable for families who seek a relaxing holiday experience.<sup>37</sup> There are also concerns that the prevalence of alcohol during the summer holidays has "degraded the tourism experience."<sup>38</sup> Furthermore, emergency-services personnel are concerned that the amount of resources spent on "drunken revelers" will divert attention away from the local area should an emergency develop.<sup>39</sup> There

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27. SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 3 (June 20, 2008).

28. *See id.* (explaining the problems associated with public drunkenness at the Truckee River).

29. *Id.*

30. *Id.*

31. Cristancho, *supra* note 1.

32. *Truckee River Alcohol Ban Signed into Law*, *supra* note 6.

33. *Id.*

34. *Id.*

35. *Id.*

36. Brown, *supra* note 4.

37. SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 3 (June 20, 2008).

38. *Truckee River Alcohol Ban Signed into Law*, *supra* note 6.

39. SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 4 (June 20, 2008).

are also environmental concerns, as rafters leave large amounts of litter along the banks of the Truckee River.<sup>40</sup>

A Placer County ordinance, passed in May 2008, prohibits the possession of open or closed alcoholic beverages within three feet of the Truckee River on both sides, but not on the river itself.<sup>41</sup> Because the Truckee River is considered a navigable waterway, only the State, not the County, has jurisdiction to ban alcohol on the river itself.<sup>42</sup> Due to these jurisdictional issues, the legislature enacted Chapter 44, which in conjunction with the Placer County ordinance, will hopefully reduce the number of alcohol-related incidents during the summer holidays.<sup>43</sup> Together, the Placer County ordinance and Chapter 44 ban the possession of open or closed containers of alcohol on the river and within three feet of the high water mark on both sides of the Truckee River from its outflow at Tahoe City to the Alpine Meadows Bridge.<sup>44</sup>

## V. CONCLUSION

Along with the alcohol ban on the American River, Chapter 44 demonstrates a pattern of increasing concern over excessive alcohol consumption along waterways. Together with the Placer County ordinance, Chapter 44 reduces the possession and consumption of alcohol along the Truckee River during summer holiday periods.<sup>45</sup> Ideally, this will prevent alcohol related issues along the river such as violence, littering, and drivers under the influence of alcohol.<sup>46</sup> Reducing these undesirable occurrences will allow law enforcement to better allocate their resources and will encourage more families to utilize the Truckee River during the summer holidays.<sup>47</sup>

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40. *Truckee River Alcohol Ban Signed into Law*, *supra* note 6.

41. Placer County, *Truckee River Alcohol Ban Progresses*, Apr. 18, 2008, <http://www.placer.ca.gov/News/2008/April/TrukAlcoholBan.aspx> (on file with the *McGeorge Law Review*). This ban applies to the portion of the Truckee River "at the outfall of Lake Tahoe, upstream of Fanny Bridge in Tahoe City, and ends at the upstream edge of Alpine Meadows Bridge." *Id.*

42. *Truckee River Alcohol Ban Signed into Law*, *supra* note 6; see also Ronald Rogers, *The Public's Right to Navigate Waterways in California*, AM. WHITEWATER, Oct. 2, 2003, [http://www.americanwhitewater.org/archive/article/966#\\_Toc52858593](http://www.americanwhitewater.org/archive/article/966#_Toc52858593) (on file with the *McGeorge Law Review*) (describing what a "navigable waterway" is and why California has jurisdiction over navigable waterways).

43. See *Truckee River Alcohol Ban Progresses*, *supra* note 41 ("In a parallel action, California Senator Dave Cox has sponsored SB 1159, which would authorize Placer County to impose the alcohol ban on the Truckee River itself between Fanny Bridge and River Ranch during designated summer periods, a power the county would not otherwise have."); SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 5 (June 20, 2008) (explaining how Chapter 44 protects the health and safety of the public).

44. *Truckee River Alcohol Ban Signed into Law*, *supra* note 6. This ban includes all islands and bridges in this portion of the Truckee River, with the exception of the Fanny Bridge in Tahoe City. *Id.*

45. See SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 5 (June 20, 2008) (explaining that Chapter 44, in conjunction with the County ordinance, will protect the health and safety of the public).

46. See *Truckee River Alcohol Ban Signed into Law*, *supra* note 6 (explaining the types of issues Chapter 44 was enacted to prevent).

47. See SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1159, at 5 (June 20, 2008) (discussing the negative impact the "party atmosphere" is having on tourism, as well as how it diverts emergency service resources away from more important areas).

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